

Introduced by Senator McGuire
(Coauthors: Senators Berryhill and Roth)
(Coauthor: Assembly Member Dodd)

February 19, 2016

An act to amend Sections 10095 and 10095.5 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1302, as introduced, McGuire. Basic property insurance: California FAIR Plan.

Under existing law, the California FAIR (fair access to insurance requirements) Plan Association is a joint reinsurance association of state insurers that is established to, among other things, assist persons in securing basic property insurance for qualified property for which insurance cannot be obtained through the normal insurance market. Existing law requires the association to establish and maintain a toll-free telephone number through which a person may receive assistance in applying for basic property insurance. Existing law requires an insurer member of the plan to provide to an applicant who is denied coverage the toll-free number for the plan for information and assistance in obtaining basic property insurance. Existing law requires an agent or broker transacting basic property insurance to either assist a person in making an application for insurance through the plan or to provide the person with that toll-free telephone number.

This bill would additionally require the association to establish and maintain an Internet Web site at which a person may receive information and assistance in applying for insurance through the plan. The bill would require an insurer member to provide an applicant denied coverage or

a policyholder whose policy is canceled or not renewed both that Internet Web site address and toll-free telephone number. The bill would require the association to cause that toll-free telephone number and Internet Web site address to be included in all communications with an applicant or insured. The bill would require an insurance agent or broker transacting basic property insurance to assist a person in making an application for insurance through the plan, and would delete the provision that permitted the agent or broker, as an alternative, to provide the person the toll-free telephone number.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10095 of the Insurance Code is amended
2 to read:

3 10095. (a) Within 30 days following the effective date of this
4 chapter, the association shall submit to the commissioner, for his
5 or her review, a proposed plan of operation, consistent with the
6 provisions of this chapter, creating an association consisting of all
7 insurers licensed to write and engaged in writing in this state, on
8 a direct basis, basic property insurance or any component ~~thereof~~
9 *of basic property insurance* in homeowners or other dwelling
10 multiperil policies. ~~Every~~ *An* insurer ~~so described in this~~
11 *subdivision* shall be a member of the association and shall remain
12 a member as a condition of its authority to transact those kinds of
13 insurance in this state.

14 (b) The proposed plan shall authorize the association to assume
15 and cede reinsurance on risks written by insurers in conformity
16 with the program.

17 (c) Under the plan, ~~each~~ *an* insurer shall participate in the
18 writings, expenses, profits and losses of the association in the
19 proportion that its premiums written during the second preceding
20 calendar year bear to the aggregate premiums written by all insurers
21 in the program, excluding that portion of the premiums written
22 attributable to the operation of the association. Premiums written
23 on a policy of basic residential earthquake insurance issued by the
24 California Earthquake Authority pursuant to Section 10089.6 shall

1 be attributed to the insurer that writes the underlying policy of
2 residential property insurance.

3 (d) The plan shall provide for administration by a governing
4 committee under rules to be adopted by ~~it~~ *the governing committee*
5 with the approval of the commissioner. Voting on administrative
6 questions of the association and facility shall be weighted in
7 accordance with each insurer's premiums written during the second
8 preceding calendar year as disclosed in the reports filed by the
9 insurer with the commissioner.

10 (e) The plan shall provide for a plan to encourage persons to
11 secure basic property insurance through normal channels from an
12 admitted insurer or a licensed surplus line broker by informing
13 those persons what steps they must take in order to secure the
14 insurance through normal channels.

15 (f) The plan shall be subject to the approval of the commissioner
16 and shall go into effect upon the tentative approval of the
17 commissioner. The commissioner may, at any time, withdraw his
18 or her tentative approval or he or she may, at any time after he or
19 she has given his or her final approval, revoke that approval if he
20 or she feels it is necessary to carry out the purposes of the chapter.
21 The withdrawal or revocation of that approval shall not affect the
22 validity of any policies executed prior to the date of the withdrawal.
23 If the commissioner disapproves or withdraws or revokes his or
24 her approval to all or any part of the plan of operation, the
25 association shall, within 30 days, submit for review an
26 appropriately revised plan or part ~~thereof~~, *of a revised plan*, and,
27 if the association fails to do so, or if the revised plan ~~so filed~~ is
28 unacceptable, the commissioner shall promulgate a plan of
29 operation or part ~~thereof~~ *of a plan* as he or she may deem necessary
30 to carry out the ~~purpose~~ *purposes* of this chapter.

31 (g) The association may, on its own initiative or at the request
32 of the commissioner, amend the plan of operation, subject to
33 approval by the commissioner, who shall have supervision of the
34 inspection bureau, the facility and the association. The
35 commissioner or any person designated by him or her, shall have
36 the power of visitation of and examination into the operation and
37 free access to all the books, records, files, papers, and documents
38 that relate to operation of the facility and association, and may
39 summon, qualify, and examine as witnesses all persons having

1 knowledge of those operations, including officers, agents, or
2 employees thereof.

3 (h) ~~Every~~ *An insurer member of the plan shall provide to*
4 ~~applicants an applicant who are is denied coverage coverage, or~~
5 ~~a policyholder whose policy is canceled or not renewed, the~~
6 ~~Internet Web site address and statewide toll-free “800” telephone~~
7 number for the plan established pursuant to Section 10095.5 for
8 the purpose of obtaining information and assistance in obtaining
9 basic property insurance.

10 SEC. 2. Section 10095.5 of the Insurance Code is amended to
11 read:

12 10095.5. (a) The association shall establish and maintain *an*
13 ~~Internet Web site and~~ a statewide toll-free “800” telephone number
14 through which ~~persons a person~~ may receive *information and*
15 assistance in applying for insurance through the plan. The
16 association shall cause the *toll-free telephone* number to be
17 published in all general distribution telephone directories in
18 ~~California; the state and shall include the toll-free telephone and~~
19 *Internet Web site address on all communications with an applicant*
20 *or insured.*

21 (b) ~~Every~~ *An insurance agent or broker transacting basic*
22 *property insurance shall either assist persons a person in making*
23 *an application for insurance through the plan or provide persons*
24 ~~who desire that insurance with the toll-free number established~~
25 ~~pursuant to subdivision (a); plan.~~

26 SEC. 3. This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the Constitution and shall go into
29 immediate effect. The facts constituting the necessity are:

30 In order to have the consumer protections proposed in this act
31 become operative as soon as possible for homeowners who are
32 having difficulty obtaining insurance coverage for their property
33 because they are located in high-risk brush and wildfire areas, and
34 to provide insurers adequate time to amend and prepare their
35 required notices to customers about the availability of coverage
36 through the FAIR (fair access to insurance requirements) Plan, it
37 is necessary for this act to take effect immediately.